

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No. 993 of 2017

Arising Out of PS. Case No.-59 Year-1992 Thana- Sakra District- Muzaffarpur

Nihar Ranjan son of Late Bhagwat Prasad, resident of Village Khasapatti
Yadunathpur P.s. Sakra, District - Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar
2. Meghan Paswan son of Late Munni Paswan, resident of Village Khasapatti
Yadunathpur, P.S. Sakra, District - Muzaffarpur.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Yogendra Kumar Singh
For the Respondent/s : Mr. Shyed Ashfaque Ahmad

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

5. 04-10-2017 Heard Sri Yogendra Kumar Singh, learned counsel for
the appellant and learned Addl. Public Prosecutor.

2. The present appeal has been preferred against
judgment of acquittal dated 23-02-2017 passed by Dr. Rakesh
Kumar Singh, learned Addl. Sessions Judge – 11th, Muzaffarpur
(hereinafter referred to as the ‘Trial Judge’) in Sessions Trial
No. 430 of 1994, arising out of Sakra P.S. Case No. 59 of 1992.
By the said judgment, the learned Trial Judge has acquitted the
respondent no. 2 from the charges under Sections 307, 326, 341,
447, 427, 504 of the Indian Penal Code.

3. Short fact of the case is that on the basis of *fardbeyan*



of one Tara Devi, mother of the appellant, an F.I.R., vide Sakra P.S. Case No. 59 of 1992, was recorded on 19-03-1992. The informant disclosed that the respondent no. 2 was quarreling with his own brother Ganaur Paswan. Thereafter, the husband of the informant namely Bhagwat Prasad tried to intervene and thereafter, the respondent no. 2 started abusing the husband of the informant and finally, tried to give garassa blow on the neck of her husband, however; the informant, with a view to save her husband, intervened and she got inflicted injury of *garassa* on her left wrist. She stated that she was further assaulted by respondent no. 2 and thereafter, in hospital, her *fardbeyan* was got recorded. Thereafter, an F.I.R. was lodged under Sections 341, 447, 324, 307, 323, 325, 427 of the Indian Penal Code, vide Sakra P.S. Case No. 59 of 1992, against the respondent no. 2.

4. After registering F.I.R., police investigated the case and chargesheet was submitted in the month of December, 1992 and cognizance order was also passed. Finally, in the case, charges were framed on 22-04-2006 and thereafter, on one way or the other, the trial was delayed and after conclusion of the prosecution evidence, statement of accused under Section 313 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.')



was recorded on 22-02-2017. During trial, to prove the case, the prosecution examined altogether 5 witnesses. Surprisingly, save and except the P.W.-2, all other witnesses, though were examined, did not turn up for their cross-examination and as such, the learned Trial Judge has rightly not taken notice of such evidence. It was a case of the prosecution that informant had received injury by *garassa* blow, during trial, neither the investigating officer nor the doctor, who had examined the injury, was examined. Even the injury report was not brought on record.

5. On going through the judgment, it is evident that learned Trial Judge has taken all steps for securing attendance of the investigating officer as well as the doctor, but they did not turn up. In absence of any such corroborative evidence, since in the case only evidence was of P.W.2, who was brother of the present appellant and son of the informant, there was no any other evidence to substantiate the accusation. Moreover, in the case, occurrence has taken place long back in the year 1992 and despite the fact that all steps were taken by the trial court for securing attendance of the investigating officer and the doctor, they did not appear and in absence of any such cogent evidence, the learned Trial Judge has rightly passed the order of acquittal.



6. The present appeal was filed by the appellant claiming to be victim, however; surprisingly, during trial this appellant was not examined even as a witness. However, after examining the impugned judgment and materials on record, we do not find any perversity in the same warranting interference.

7. Accordingly, there is no need to grant leave and as such, the leave petition i.e. I.A. No. 2020 of 2017 filed under Section 378(3) of the Cr.P.C. stands dismissed. Consequently, the appeal against acquittal too is dismissed.

(Rakesh Kumar, J.)

(Mohit Kumar Shah, J.)

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